



March 28, 2003

ENGROSSED

HOUSE BILL No. 1151

DIGEST OF HB 1151 (Updated March 26, 2003 10:58 AM - DI 106)

Citations Affected: IC 23-14.

Synopsis: Disposal of cremated remains. Provides that a person who fails to file an annual report for a crematory commits a Class A misdemeanor. Provides that a funeral home has no liability for: (1) disposing of cremated remains held in excess of 60 days; or (2) holding cremated remains in excess of 60 days; if the funeral home provides notice to the authorizing agent explaining the intentions of the funeral home.

Effective: July 1, 2003.

Lytle, Weinzapfel

(SENATE SPONSORS — MEEKS R, LEWIS)

January 7, 2003, read first time and referred to Committee on Courts and Criminal Code.
February 10, 2003, amended, reported — Do Pass.
February 19, 2003, read second time, amended, ordered engrossed.
February 20, 2003, engrossed. Read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 27, 2003, read first time and referred to Committee on Criminal, Civil and Public Policy.
March 27, 2003, amended, reported favorably — Do Pass.

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EH 1151—LS 7224/DI 110+



March 28, 2003

First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1151

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-14-31-27 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 27. (a) Except as
3 provided in subsection (c), a crematory authority shall not cremate
4 human remains until the authority has received the following:

5 (1) A cremation authorization form provided by the crematory
6 authority, signed by an authorizing agent, containing the
7 following information:

8 (A) The identity of the human remains and the time and date
9 of death.

10 (B) The name of the funeral director who obtained the
11 cremation authorization.

12 (C) The name of the authorizing agent and the relationship
13 between the authorizing agent and the decedent.

14 (D) A statement by the authorizing agent that the authorizing
15 agent:

16 (i) has the right to authorize the cremation of the decedent;

17 (ii) is not aware of any person who has a superior priority

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right to that of the authorizing agent; or

(iii) if the authorizing agent is aware that there is another person who has a superior priority right to that of the authorizing agent, a statement that the authorizing agent has made all reasonable efforts to contact the person, has been unable to contact the person, and has no reason to believe that the person would object to the cremation of the decedent.

(E) Authorization for the crematory authority to cremate the human remains.

(F) A statement that the human remains do not contain a pacemaker or any other material or implant or radiation producing device that may be potentially hazardous or cause damage to the cremation chamber or the individual performing the cremation. The authorization form may state that the funeral director is not liable for damages caused by a pacemaker or other implanted device that was not disclosed to the funeral director or of which the funeral director could not reasonably be aware.

(G) The name of the funeral director authorized to receive the cremated remains from the crematory authority or, if the crematory is on cemetery property, the cemetery authorized to receive cremated remains.

(H) The manner in which final disposition of the cremated remains is to take place, if known. If the cremation authorization form does not specify final disposition in a grave, niche, or scattering area, the form may indicate that the cremated remains will be held by the crematory authority for not longer than thirty (30) days from the date of cremation before the remains are released. The form may indicate that the crematory authority shall return cremated remains that have not been disposed of within thirty (30) days to the funeral director or funeral home of record who shall hold them for not longer than sixty (60) days from the date of cremation before disposing of the cremated remains either as previously authorized or, if there is no authorization, in any legal manner.

The funeral home has no liability for:

(i) disposing of cremated remains in any manner permitted by law if the remains have been held; or

(ii) holding the cremated remains;

in excess of the sixty (60) days permitted under this clause if the authorizing agent fails to claim the remains during

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the sixty (60) day period. The funeral home must first send written notice by certified mail return receipt requested to the authorizing agent explaining the intentions of the funeral home regarding the disposal of or holding of the cremated remains in order for the funeral home to be immune from liability under this clause.

(I) A statement confirming the identity of the valuables belonging to the decedent previously taken and being held by the funeral director or the funeral home.

(J) A statement prohibiting the crematory from selling nonorganic material recovered from the human remains.

(K) A statement that the authorizing agent has made specific arrangements for any viewing of the decedent before cremation, or for a service with the decedent present before cremation. If a viewing or service is planned, the date and time of the viewing or service and whether the crematory authority is authorized to proceed with the cremation upon receipt of the human remains.

(L) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form.

(2) A completed and executed burial transit permit provided by the local health officer to the funeral director indicating that the human remains are to be cremated.

(3) A copy of:

(A) the completed and executed certificate of death; or

(B) a release for cremation by the coroner if an investigation of the circumstances of the deceased person's death came under the authority of the coroner, but the release does not constitute an authorization as required by this chapter.

(b) The cremation authorization form required under subsection (a)(1) must be signed by the funeral director who obtained the cremation authorization. The funeral director shall execute the cremation authorization form as a witness and is not responsible for the representations made by the authorizing agent unless the funeral director has actual knowledge of a false or inaccurate representation. The funeral director shall certify to the crematory that the human remains delivered to the crematory authority are the human remains identified by the authorizing agent on the cremation authorization form.

(c) Notwithstanding subsection (a)(3)(A), a death certificate is not required for the cremation of the remains of a person:

(1) who died in another state; and

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(2) whose remains are transported to Indiana by:

(A) a licensed funeral director; or

(B) the agent of a licensed funeral director;

for the purpose of cremation at an Indiana crematory;

if the funeral director or funeral director's agent obtains the documents required for cremation by the state in which the death occurred.

However, if final disposition of the human remains is to occur in Indiana, the provisions of subsection (a)(3)(A) shall apply.

SECTION 2. IC 23-14-31-52 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 52. (a) Except as provided in subsections (b), (c), and (d), a person that knowingly or intentionally violates this chapter commits a Class B misdemeanor.

(b) A person that knowingly or intentionally:

(1) performs a cremation without receipt of a cremation authorization form signed by an authorizing agent;

(2) signs a cremation authorization form that the individual knows contains false or incorrect information; or

(3) violates a cremation procedure under sections 36 through 42 of this chapter;

commits a Class D felony.

(c) A crematory authority that knowingly represents to an authorizing agent or the agent's designee that a temporary container or urn contains the cremated remains of a specific decedent when the container or urn does not commits a Class D felony.

(d) A person:

(1) who:

(~~1~~) (A) professes to the public to be a crematory authority; or

(~~2~~) (B) operates a building or structure in Indiana as a crematory;

without being registered under section 22 of this chapter; **or**

(2) who fails to file an annual report required under section 24 of this chapter;

commits a Class A misdemeanor.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1151, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 6, after "manner." insert "**The funeral home has no liability for:**

(i) disposing of cremated remains in any manner permitted by law if the remains have been held; or

(ii) holding the cremated remains;

in excess of the sixty (60) days permitted under this clause if the authorizing agent fails to claim the remains during the sixty (60) day period. The funeral home must first send written notice by certified mail return receipt requested to the authorizing agent explaining the intentions of the funeral home regarding the disposal of or holding of the cremated remains in order for the funeral home to be immune from liability under this clause."

and when so amended that said bill do pass.

(Reference is to HB 1151 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 11, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1151 be amended to read as follows:

Page 5, line 6, reset in roman "or".

Page 5, line 8, delete "or".

Page 5, delete lines 9 through 11.

Page 5, delete lines 17 through 21, begin a new paragraph and insert:

"(d) A person:

(1) who:

~~(1)~~ **(A)** professes to the public to be a crematory authority; or

~~(2)~~ **(B)** operates a building or structure in Indiana as a crematory;

without being registered under section 22 of this chapter; **or**

(2) who fails to file an annual report required under section 24 of this chapter;

commits a Class A misdemeanor."

(Reference is to HB 1151 as printed February 11, 2003.)

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COMMITTEE REPORT

Mr. President: The Senate Committee on Criminal, Civil and Public Policy, to which was referred House Bill No. 1151, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 12.

Page 2, line 36, reset in roman "final".

Page 2, line 38, reset in roman "final".

Page 4, delete lines 21 through 39.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1151 as reprinted February 20, 2003.)

LONG, Chairperson

Committee Vote: Yeas 6, Nays 0.

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